

UNITED STATES OF AMERICA
DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

ANDREW BUTLER

DOCKET NO. 18-CV-336-JL

VS.

NEW HAMPSHIRE STATE PRISON WARDEN

AND DEBORAH ROBINSON

OPPOSITION TO MOTION TO DISMISS

NOW COMES the Petitioner and objects to Respondents' Motion Dismiss.

1. Andrew Butler is incarcerated under the control of the Department of Corrections by Respondent's own admission in its title to its Exhibit 15 and Andrew Butler is stripped of his basic fundamental Constitutional rights by his incarceration.,
2. This Honorable Court per order dated May 2, 2018 found the Petition sufficient to survive preliminary review and ordered a response to be filed.
3. Andrew Butler has standing to file this Petition for a Writ of Habeas Corpus.
4. In 1908, *Ex parte Young* established an exception to states' sovereign immunity under the Eleventh Amendment, holding that when a state official violates the federal constitution, the officer is "stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct."
5. The 11th Amendment is not a bar to this Petition. *Ex parte Young* permits suits for prospective and injunctive relief against a state official, in the case at bar the officials in charge of the agency responsible for the violation, to enforce federal rights to wit the named Respondents.
6. A memorandum of law accompanies this Opposition.

Respectfully submitted,

Andrew Butler

By his attorney,
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/s/ Sandra Bloomenthal
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Certificate of Service

I hereby certify that I have today forwarded via ECF a copy of this Petition to all counsel of record.

/s/ Sandra Bloomenthal

Sandra Bloomenthal